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1401 WALNUT STREET  
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APR 13 1998

OFFICE OF PETITIONS  
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In re Reissue Application of :  
Ronald J. MacNeil :  
Application No. 09/030,702 :  
Filed: February 25, 1998 :  
For: Lacrosse Stick Head :  
: :  
: DECISION REFUSING STATUS  
: UNDER 37 CFR 1.47(b)  
: :  
: :

This is in response to the petition under 37 CFR 1.47(b), filed February 25, 1998, requesting acceptance of the application without the signature of the inventor on the oath or declaration.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed with a "Declaration under 37 CFR §1.47", which has been treated as a petition under 37 CFR 1.47(b). In the declaration, Peter W. Rogers, President of Shamrock Lacrosse, Inc., Assignee of U.S. Patent No. 5,494,297, states that "our attorneys contacted" the inventor and that the inventor subsequently contacted "us" and refused to join in the filing of the reissue application.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage. Applicant lacks items (1), (2), (3), and (5) set forth above.

As to item (1), Rule 47 applicant failed to show or provide proof that the inventor has refused to sign the declaration since applicant has not established that the

inventor was presented with a copy of the application papers. Before an inventor can refuse to sign an oath or declaration, he must have been presented with a copy of the application papers (specification, claims and drawings and any preliminary amendment referred to in the oath or declaration). Did the inventor receive the application papers? See Manual of Patent Examining Procedure, Section 409.03(d). The proof of the pertinent events must be made by someone with first hand knowledge of the events. Since it would appear that applicant's attorney presented the application papers, the attorney should make the required statement.

As to item (2), the declaration does not set forth the citizenship, residence and post office address of the inventor and therefore does not comply with 37 CFR 1.63.

As to item (3), the petition fee of \$130.00 is required.

As to item (5), since applicant asserts to be the assignee, applicant must supply a certificate under 37 CFR 3.73(b), specifically applicant should state the reel and frame number where the assignment is recorded.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

By FAX: (703) 308-6916  
Attn: Special Program Law Office

By hand: One Crystal Park, Suite 520  
2011 Crystal Drive  
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-3159.

  
Karin Tyson  
Senior Legal Advisor  
Special Program Law Office  
Office of the Deputy Assistant Commissioner  
for Patent Policy and Projects